

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

**Proposing rule making related to biofuel compatibility with underground storage tanks
and providing an opportunity for public comment**

The Environmental Protection Commission (Commission) hereby proposes to amend Chapter 135, “Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in 2022 Iowa Acts, House File 2128, section 32, signed by Governor Kim Reynolds on May 17, 2022.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 455G as amended by 2022 Iowa Acts, House File 2128.

Purpose and Summary

Chapter 135 regulates underground storage tanks used for the storage of regulated substances. This proposed rule making will align the administrative rules in that chapter with 2022 Iowa Acts, House File 2128, which recently amended Iowa Code chapter 455G. The legislation requires that all new, replacement, or converted gasoline or diesel fuel storage and dispensing infrastructure be compatible with E-85 and B-20, respectively.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. A copy of the fiscal impact statement is available from the Department of Natural Resources (Department) upon request.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 28, 2023. Comments should be directed to:

Keith Wilken, Supervisor
Underground Storage Tank Section
Iowa Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319
Email: keith.wilken@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows. Upon arrival, attendees should proceed to the fourth floor to check in at the Department reception desk and be directed to the appropriate hearing location.

February 28, 2023
1 p.m.

Conference Room 5 West
Wallace State Office Building
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **135.4(3)“b”** as follows:

b. Owners and operators must have a UST installer licensed under 567—Chapter 134, Part C, submit the department's checklist for equipment compatibility for the UST system to the department at least 30 days prior to switching to a regulated substance containing greater than 10 percent ethanol or greater than 20 percent biodiesel, or any other regulated substance identified by the department.

ITEM 2. Adopt the following new paragraph **135.4(3)“c”**:

c. A retail dealer, as defined in Iowa Code section 214A.1, must show compliance with the requirements of Iowa Code sections 455G.32 and 455G.33, if applicable, by submitting and maintaining the applicable reporting and record-keeping documentation listed in subparagraphs 135.4(5) “a”(10) and 135.4(5) “a”(11) and subparagraphs 135.4(5) “b”(12) and 135.4(5) “b”(13).

ITEM 3. Amend subparagraph **135.4(5)“a”(9)** as follows:

(9) Notification prior to UST systems switching to certain regulated substances;

ITEM 4. Adopt the following new subparagraph **135.4(5)“a”(10)**:

(10) Documentation establishing compatibility and capability as required in Iowa Code section 455G.32, if applicable;

ITEM 5. Adopt the following new subparagraph **135.4(5)“a”(11)**:

(11) Documentation establishing compatibility and capability as required in Iowa Code section 455G.33, if applicable.

ITEM 6. Amend subparagraph **135.4(5)“b”(11)** as follows:

(11) Documentation of compliance for spill and overfill prevention equipment and containment sumps used for interstitial monitoring of piping (135.4(12));

ITEM 7. Adopt the following **new** subparagraph **135.4(5)“b”(12)**:

(12) Documentation establishing compatibility and capability as required in Iowa Code section 455G.32, if applicable;

ITEM 8. Adopt the following **new** subparagraph **135.4(5)“b”(13)**:

(13) Documentation establishing compatibility and capability as required in Iowa Code section 455G.33, if applicable.